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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)
) CC Docket No. 96-45
Federal-State Joint Board on Universal Service)

**REPLY COMMENTS OF
ARCH COMMUNICATIONS GROUP, INC.**

Arch Communications Group, Inc. ("Arch") hereby submits these Reply
Comments in the above-captioned proceeding.¹

The New York Clearing House Association, MasterCard International
Incorporated, and VISA, U.S.A., Inc. (jointly "Financial Service Providers") support the
Petitions for Reconsideration of the Ad Hoc Telecommunications Users Committee ("Ad
Hoc Committee") and the American Petroleum Industry ("API") which contend that the
Commission is prohibited from reforming private contracts to add a universal service
assessment.² The Financial Service Providers argue that contract reform will not serve
the public interest because a carrier's universal service contributions will be offset by
reductions in access charges established in the *Access Charge Reform* proceeding.³

Arch opposes the Financial Service Providers. The Providers' argument is
premised upon a false assumption as applied to paging carriers. Paging carriers do not
pay access charges and therefore cannot benefit from access charge reform. Further, as
demonstrated by BellSouth Corporation, GE American Communications, Inc., and the

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *First Report and Order*, FCC 97-157 (rel. May 8, 1997) ("Universal Service Order").

² Financial Service Providers Comments at 3-6.

³ *Id.*

Personal Communications Industry Association (“PCIA”), permitting contract reform will serve the public interest.⁴ Arch demonstrated in its comments that the Commission has the legal authority to reform private contracts where necessary to carry out its functions under the Communications Act or where such action otherwise serves the public interest.⁵ Arch, therefore, urges the Commission to preempt state law for the limited purpose of allowing CMRS providers to pass through a share of their contribution obligations to contract customers.

Arch also concurs with the numerous parties that state that it is extraordinarily difficult to distinguish “interstate” from “intrastate” CMRS offerings and end-users.⁶ This difficulty arises because of several factors, namely: the mobile nature of CMRS offerings; the multi-state coverage of some systems; the Commission’s licensing scheme for Personal Communications Services which establishes license areas that routinely cross state lines; and the peculiarly interstate jurisdictional status of CMRS under Section 332 of the Communications Act. Further, as Arch pointed out in its comments, these issues are exacerbated in the paging context.⁷ Arch therefore continues to urge the Commission to clarify that paging providers may pass through their universal

⁴ BellSouth Corporation Comments 8-9; GE American Communications, Inc. Comments 6-13; PCIA Comments at 15-16.

⁵ *See* Arch Comments at 8.

⁶ *See, e.g.*, GTE Comments at 18-19; 360 Communications Company (“360 Communications”) Comments at 6-7; AMSC Subsidiary Corporation (“AMSC”) Comments at 5; American Mobile Telecommunications Association, Inc. (“AMTA”) Comments at 2-4. *See also* CTIA Petition at 18-23; AirTouch Petition at 10-12.

⁷ Arch Comments at 5-6.

service contributions to all of their customers, regardless of whether they may be characterized as “interstate” or “intrastate.”

Arch also supports the petitioners and commenters who ask the Commission to reconsider its determination that CMRS providers are subject to state universal service support mechanisms before CMRS offerings are a substitute for landline service.⁸ This determination directly contravenes the express language of Section 332(c)(3)(A) of the Communications Act.

Finally, Arch concurs with the parties that argue that imposing full universal service contribution obligations upon paging carriers is neither “equitable” nor “nondiscriminatory.”⁹ Arch therefore supports PCIA’s request that the Commission reduce by 50% paging carriers’ universal service contribution obligations.

In light of the above, Arch urges the Commission to: (1) expressly preempt state law for the limited purpose of allowing CMRS providers to pass through a share of their contribution obligations to contract customers; (2) clarify that CMRS providers may pass through universal service contributions to all of their customers, intrastate as well as interstate; (3) find that states are preempted from imposing universal

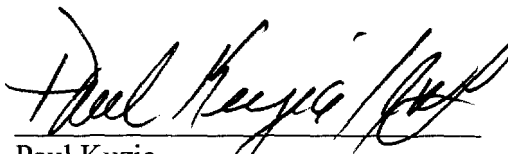
⁸ See 360 Communications Comments at 2-7; AMSC Comments at 2-3; AMTA Comments at 5-6; PCIA Comments at 3-10. *See also* AirTouch Petition for Clarification and Partial Reconsideration 12-16; Comcast/Vanguard Joint Petition for Reconsideration 2-212; Nextel Petition for Reconsideration 5-12; ProNet Petition for Reconsideration 9-13.

⁹ See PCIA Petition for Partial Reconsideration and Clarification 4-8; Ozark Telecom, Inc. Petition for Reconsideration 3-8; ProNet, Inc. Petition for Reconsideration 2-9; and Teletouch Licenses, Inc. Petition for Reconsideration 2-7.

service obligations on CMRS providers; and (4) reduce by 50% the universal service contribution obligations of paging carriers.

Respectfully submitted,

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September 3, 1997

CERTIFICATE OF SERVICE

I, Toshia L. Cooper, do hereby certify that copies of the foregoing "Reply Comments" were served this 3rd day of September, 1997 by first class United States mail, postage prepaid to the following:

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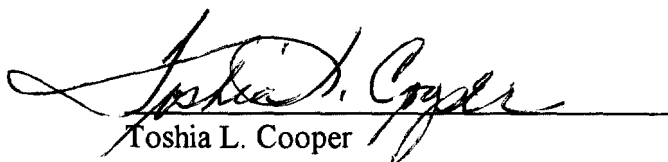
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